

Community Corrections Council October 10, 2003

The Community Corrections Council of the Nebraska Commission on Law Enforcement and Criminal Justice held its first meeting Friday, October 10, 2003 at 8:30 a.m., at the Nebraska State Office Building, lower level conference room C, 301 Centennial Mall South, Lincoln, Nebraska. Notice of the meeting was published September 26, 2003 in the Lincoln Journal Star.

Call to Order

The meeting was called to order at 8:40 a.m. by Linda Krutz. The following members were present and introduced themselves giving a brief background: Scot Adams, William Burgess, Catherine Cook, Steve King for Harold Clarke, Allen Curtis, Karen Flowers arrived at 9:25 a.m., Aileen Gruendel, Julie Hippen, Joe Kelly, Robert Lindemeier, Jim McKenzie, Ken Vampola, Ed Birkel, Kermit Brashear, John Icenogle, Joe Steele and John Synowiecki arrived at 9:15 a.m.. Public in attendance: Jeff Golden, Boys and Girls Home of NE; Julie Rogers, Legislative Counsel; Howard Kensinger, Legislative Fiscal Office; and Frank Velinsky, Caretech, Inc., Omaha. Staff present: Bruce Ayers and Barbara McCreight.

Krutz welcomed the Council members noting that one half of the membership was composed of members from the original working group. The other half of the membership represented new members. Those members from the original group are a available resource for the new members.

PROCEDURAL TASKS

Krutz noted the meeting included a working lunch, as will most meetings in the future. Members were asked to notify the office if they are unable to attend future meetings.

Election of Chair

The Council next considered the selection of a chairperson.

Motion

A motion was made by Vampola and seconded by McKenzie to nominate Kermit Brashear as chairman of the Community Corrections Council. Motion passed unanimously by acclamation.

The following procedures were outlined:

1. Council members will have equal participation with policy and procedures driven by the Chairman.
2. Discussions will be informal and thorough. All materials to be covered at a meeting will be mailed to members in advance of the meeting to allow for their review.
3. Dress will be business casual
4. Members will be addressed by first names, no titles will be used.
5. Meetings will be substantive and once business has been covered, the meeting will adjourn.
6. Meetings will start at 9:00 a.m. and will not run later than 4:00 to 5:00 p.m.
7. Reimbursement forms are available for meeting expenses.

Brashear introduced Julie Rogers, counsel to the Judiciary Committee, who through her assistance to him also became staff to the Working Group. The working group outlined the desired membership of the Council. All the expertise from the original working group has been enhanced through the composition of this Council.

Future meeting dates

The Council selected the following meeting dates:

November 7, 2003;	March 12, 2004;
December 12, 2003;	April 16, 2004;
January 9, 2004;	May 14, 2004; and
February 13, 2004;	June 11, 2004.

Additional dates will be set once the legislative schedule is released.

John Synowiecki arrived at the meeting at 9:15 a.m.

Overview of Community Corrections Working Group Process

Brashear gave a brief overview of the community corrections working group process.

In December 2002, the Community Corrections Working Group designed a proposal which was incorporated into Legislative Bill 46. The purpose of the bill was to prevent Nebraska's correctional system from bankrupting the state and to establish a comprehensive criminal justice strategy.

It was noted that a second inmate population crisis in a decade is being faced by the State. The Department of Correctional Services (DCS) is currently at 133 percent of design capacity, even with the completion of the Tecumseh State Correctional

Institution. If current policies remain unchanged, by 2005 DCS will be at 153% of design capacity and by 2008, it will be at 176% of design capacity.

Within the state budget over the last 10 years, DCS has been one of the fastest growing budget items due to larger inmate populations. In FY 96/97, the budget for DCS was at \$62.4 million. That rose to \$121 million in FY 02/03. This represents an increase in expenditures of 100% within 5 years. If this trend were to continue, the budget would reach \$246.76 million by FY 08/09.

In the past inmate crisis during the 1990's, the state had adequate funds and the political will to pay its way out of the crisis by building the Tecumseh facility in 2001.

Governor Johanns created the Working Group to identify ways to "plan a way out" of the impending inmate population crisis. The Working Group was mandated to propose ways that would maintain and enhance justice, reduce taxpayer cost, and ensure public safety. It was recognized that this would also require education of the public as to the value and cost-savings of such programs.

The Working Group discussed a wide range of legal and public policy issues relating to the purposes of sentencing and incarceration, the protection of public safety, the efficient use of state resources, and the exercise of judicial discretion. They studied ways to reduce reliance on incarceration and to encourage the development and use of "community corrections" or incarceration alternatives based in the community.

The Working Group received excellent technical assistance from the Vera Institute of Justice (Vera) provided through a federal Title 1C3 grant. Vera provided information regarding other states' criminal justice systems, the "best and worst practices" across the country were identified, and extensive research was provided on the process.

The Working Group concluded that sentencing practices must change in Nebraska. Use of Nebraska's prisons must be more heavily concentrated on the criminals who pose the greatest danger to our communities. The state must distinguish between those offenders we are "afraid of" and those who we are "mad at." The Group also concluded that credible alternatives in the form of community corrections must be created for offenders not needing hard time in prison and the services must be utilized through Probation and Parole. This would lead to the best use of state resources.

Incarceration costs were outlined. It was noted that the average cost per offender in 2002 within DCS was \$22,750 per year. The average cost per incarcerated inmate in 2003 is \$26,600. This cost compares to the average cost of \$330 per probationer and \$3,103 per parolee per year.

Karen Flowers arrived at the meeting at 9:25 a.m.

LB 46 was created as the first step in meeting the critical need to identify appropriate alternatives to centralized incarceration facilities and foster their utilization within a comprehensive community justice strategy. Some of the key components of the bill include strategies relating to the current systems of Probation, Parole, the Commission on Law Enforcement and Criminal Justice, and the Department of Correctional Services (DCS). They include:

- ✓ Creation of the Community Corrections Council to oversee and ensure that a continuum of community corrections is developed for use by probationers and parolees. For budgetary and administrative purposes, the Council was placed under the Crime Commission.
- ✓ Probation and parole fees are assessed for the support of enhanced programming and services for offenders utilizing Probation and Parole. A probation enrollment fee is assessed to each probationer and a monthly probation and parole programming fee is assessed to each probationer and parolee.
- ✓ Probation officers are given the option of imposing administrative sanctions when a probationer has committed a minor or technical violation.
- ✓ Presentence investigations (PSIs) are prohibited with regard to convictions for Class IIIA misdemeanors or lesser offenses.
- ✓ Sentencing guidelines are to be created. Sentencing guidelines based on a defendant's instant criminal conduct and prior criminal history offer the best way to make equitable decisions about which offenders go to prison and to emphasize the incapacitation of violent, sexual and habitual offenders.
- ✓ A criminal justice data reporting and analysis process is to be developed to enable the state to make consistent, competent, and informed criminal justice policy and sentencing decisions.
- ✓ The Board of Parole is given additional discretion in granting parole by repealing restrictions on an inmate's parole ineligibility.
- ✓ The Correctional System Overcrowding Emergency Act, in order to preempt federal court intervention, will allow a planned process of inmate release on parole when the prison population is sufficiently over capacity.

Nebraska needs a comprehensive strategy, premised on LB 46, to manage the fiscal crisis and to rethink how it expends funds within the criminal justice system. LB 46 generated funds and created an outline but the fiscal crisis and overcapacity issues have not been solved. The Council will continue the development, shape the

comprehensive strategy, and determine whether Nebraska gets to the result LB 46 was designed to achieve.

Questions and Answers

The Council discussed the following questions presented by members.

- ✓ How were cost savings determined, does it included only administrative costs, or does it also include the cost of community services?

McKenzie stated services of the community are to be paid for by the parolee. Conditions are set by Parole requiring the parolee to obtain certain types of programming and those conditions are enforced by Parole. Currently, Parole is seeing lapses of 60-90 days before most parolees can save enough money to enter the programs. Some failures are occurring because the programs can not be accessed immediately. He noted some parolees are just earning minimum wages and have other obligations, which means they are just scraping by supporting themselves.

Gruendel noted the community services programs are already stretched. She questioned how the Council plans to get parolees into programs and questioned if there would really be a cost savings if the needed community services were not provided.

Icenogle noted more money will need to be spent to provide community services under this system.

- ✓ How many inmates do we hope to divert to community corrections and how many parole and probation officers will be required to handle these persons?

If the state diverts 10% of the annual 2200 inmates entering corrections the growth curve would to be lower. If 400 inmates were diverted, the growth rate would be flattened.

Unless sufficient numbers are diverted DCS, which is at 134% capacity, will have to request funds for additional capacity within the next year.

Birkel stated projected savings to Probation were determined by dividing the general appropriation for administrative costs by the number of probationers processed through Probation. No service provisions are currently provided by the State to probationers. The assessment of probation fees will provide funds to enhance services.

Curtis noted the purpose of this Council is to identify the target population and determine the appropriate persons for community corrections. These decisions will influence that number.

Vampola suggested the Council look to the future rather than just to correct the situation we are in now and try to make the correctional system more recession proof as far as the budgeting process. He suggested the numbers need to be corrected. The variable cost as opposed to the fixed costs of incarceration differ. He noted \$28,000 per inmate includes administration, staff, fixed costs of the facility (overhead). The actual variable cost per inmate going out the door is about \$1800 per year. That is absent medical expenses which would push the total to \$5,000. He noted if 10 inmates are let out, this would not be a savings of \$280,000 but rather \$18,000. (Amended to \$26,600)

Brashear noted the Council will need to eventually agree and consistently use one set of numbers for the purpose of communicating to the public.

McKenzie stated on the Parole side, it is estimated that if an additional 500 were released, at the current level of efficiency, Parole would need an additional 11 parole officers, 2 district supervisors, and 2 secretaries. However, those numbers could possibly be less with increased use of technology.

✓ Were fees generated by LB 46 available to be used for direct personnel costs?

Rogers stated that LB 46 did not prohibit use of the funds for personnel. However, the clearly stated objective was to provide funds for programming.

✓ Was the vote to close the Lincoln Correctional Center a bluff or a real decision by the Legislature.

Brashear noted the concept of using the \$26,000 in possible savings as a carrot was true. People needed to understand the dramatic differences possible if people are moved intelligently to alternatives that will serve the whole of the community. The target numbers are credible, real, and arrived at in good faith.

Brashear stated the vote to close the Lincoln Community Corrections Center was taken at 7:00 p.m. The next day the Legislature amended the concept to make it effective in 2004 and assigned the Judiciary Committee to study the situation. The Judiciary Committee held hearings, has done studies, and has a draft report that will be released with a conclusion. A public hearing will be held regarding the report and a proposal will be presented before the next legislative session.

The Council took a 15 minute break at 9:45 a.m.

Identify Goals

Standard form core materials will be prepared for members (i.e. summary of LB 46, summary of the overview of statistical information) as the Council goes through the process. Changes will be electronically redlined that have been made to the materials by a consensual process.

LB 46 included the following deadlines for the Council.

1. Standards and the community corrections plan are to be completed by January 1, 2004. Brashear suggested the deadline can be met, but that the plan will grow and expand as the Council continues to work.
2. Sentencing guidelines are to be completed by July 1, 2004.

Krutz noted the need for the Council to develop a mission statement or vision. Input was requested from members as to their preconceived ideas about community corrections and the process, whether there is a need for a change in sentencing guidelines, if there are legislative changes needed regarding sentencing, and do we need to work on educating the judges and prosecutors on the concept of community corrections.

It was noted work on community corrections first began in Nebraska in the 1980's. It will be important how community corrections is understood by the public and how it is portrayed in the media.

Brashear suggested getting background on prior efforts and how they failed and comments on sentencing guidelines and what the issues are. He noted the state is headed for a public declaration of a crisis. It is the Council's responsibility to plan our way out of it.

King stated in 1987 the Legislature sponsored the NE Prison Capacity Project to focus on the issue of growing prison populations and what could be done to manage them. The University of NE was involved and published some studies in the UNL Policy Perspectives advocating alternatives, specifically they were looking at intensive probation supervision as a possibility. The whole concept was to take a certain number of offenders that are prison bound and divert them into other kinds of alternatives. Ultimately, a Task Force (LR222 Task Force) was formed under Senator Abboud, hearings were held and a report issued. That led to the formation of the Governor's Task Force on Prison Overcrowding. This task force held meetings and also issued a report recommending both front end and back end alternatives to incarceration to avoid a fiscal crisis.

In 1993, Senator Ashford sponsored a Community Corrections Act which was passed but no funding was appropriated.

In 1997, with the funding for Tecumseh, funding was set aside for the incarceration work ethic camp in McCook which is designed to be a front-end diversionary alternative. There was also \$1 million set aside for community corrections. Ultimately the funds provided for the Office of Community Justice which made grants to communities to develop alternatives. The funding for that office was pulled two years ago.

Icenogle noted that in the late 80's and 90's, there was a prison issue and a service issue. There was a belief that we could do better by the clientele in the criminal justice system if we did more than merely incarcerate. At that time nationally, there was a large push for a community corrections program. Nebraska agreed to the need to improve services and to lower the costs of incarceration. However, a decision as to who was going to do it and who was going to pay for it was not decided. There was no leadership, no council to develop state programs, and no definition of what community corrections is, who pays for it, who runs it, how it interrelates to the state, etc. He noted if it had been done right in 1993, the state could possibly have saved money by not having to build the facility at Tecumseh. Money will not be saved today, more money will be spent as alternatives are developed. However, money will be saved into the future.

It was noted if the state is not successful in implementing plans under LB 46, Nebraska is on a course of having to build a new prison. Nebraska has had a stagnate population of 1.6 to 1.8 million in the last 40 years with one of the fastest growing prison populations in the nation. The federal courts will not allow the state to incarcerate people at 176% of design capacity. A new prison, such as the \$75 million facility at Tecumseh, would cost \$125 million today. If it were to employ the same number of new employees, it will cost the State, at today's rate, \$20 million a year.

Brashear stated at the next meeting the Council should consider its vision and its public relations needs. The Council will need to continue to tell its story broadly.

Sentencing Guidelines

Krutz noted members were provided copies of the "Sentencing Commission Profile" presented by the National Association of Sentencing Commissions, the Conference of State Court Administrators, and the National Center for State Courts. The following points were discussed:

- ✓ Nebraska has broad sentencing guidelines with classes of felonies and misdemeanors and within those classifications there is a sentencing range.
- ✓ Sentencing guidelines have generally been implemented in states to correct perceived problems.
- ✓ Nebraska will need to determine whether the state has a problem and if so, what the problem is before adopting sentencing guidelines.
- ✓
- ✓ The State will need to find the political will to generate money to provide services to keep people from being incarcerated. Without the will, sentencing guidelines may not solve the problem, they could back fire.
- ✓ Federal sentencing guidelines have backfired and resulted in a gigantic increase in the number of people being incarcerated. The federal judge is mandated to give specific time in prison. It takes away from the judge the choice between a wide range of possible penalties, services, or rehabilitation efforts.
- ✓ Nebraska will need to determine if the increasing prison population in Nebraska has been due to sentencing.
- ✓ Strong constitutional questions exist about whether the executive branch can impose and remove discretion from the judicial branch. It is critical that judges be part of the formation of the sentencing guidelines.
- ✓ On the political side, judges will be active lobbying the Legislature. There are 110 trial judges across the state used to a broad system in which the judge uses his own discretion in treating the offender to seek the best outcome. They will be agitated if that power or authority is removed or changed.
- ✓ It was noted the language of the bill is designed specifically to avoid both political and constitutional problems. Implementation of sentencing guidelines is at the discretion of the Supreme Court. The Council is required to create the sentencing guidelines but the Supreme Court is not required to implement them.
- ✓ The bill directs the Council to develop sentencing guidelines only for non-violent and primarily non-violent drug offenses. Other states have worked on sentencing guidelines from misdemeanors to felonies over several years. They have created commissions which have worked 3-7 years to develop a full system of sentencing guidelines. The Commissions are ongoing and continue to meet to redefine guidelines.

- ✓ Law enforcement is concerned about perceived inconsistencies among the judges.

It was noted the current system allows judges to be responsive to their communities and their community's perceptions.

- ✓ The state, with limited resources, needs good data to determine how to best use its resources. Data can give predictive information so each time a policy or law is changed, the cost to the state and the impact on other areas will be known.

Steele stated the Supreme Court discussed sentencing guidelines in 1982-83. It has been a periodic discussion since then. The state will need some help to avoid traps that other states have fallen into. Guidelines could help to institutionalize whatever bias already exists in the system. A clear definition of the goal is to put fewer people in prison and leave more people in society rehabilitating and contributing. How that population is shifted to that direction while maintaining public safety is the question to be addressed by the Council.

Vampola stated the Council is trying to create a diversion process and give justification to diverting particular cases from a prison incarceration to a community corrections. He cautioned that it takes extensive follow up programming and may become a dumping ground for judges.

Birkel's conception of community corrections is the enhancement of probation and parole systems. He suggested the system should wrap around the felony offender. He urged the Council, as its first task, to analyze and mandate a consistent use of an offender risk assessment tool. The tool would be helpful at the sentencing stage, probation stage, and corrections/parole.

January Charges

The Council is charged by January, 2004, to establish a community corrections plan and minimum standards for the development and use of community correctional facilities and programs. Once the deadline is met, the plan will continue to evolve as the Council functions.

Krutz stated Vera Institute of Justice was in Nebraska this week and another visit is planned. One topic covered was how Nebraska should approach sentencing guidelines. A work plan was developed from October 2003 to June, 2004. Vera has some money which can be used to assist the state if Nebraska can provide matching funds. Vera has access to a lot of research.

Steele questioned if local resources, such as the Public Policy Center, have been considered to provide assistance to the Council.

Probation/Parole Supervision Fees

Probation

Birkel distributed copies of a summary of 2003 community corrections fees which outlined the original projection, actual number sentenced and state fees collected. The first year projection was \$2.5 million and the second year was \$4.6 million. The concept was to provide funds through the \$30 enrollment fee to develop programs to meet the particular needs of probationers. This would strengthen and support the probation and parole system while keeping people out of prison. Birkel noted in the first three months, the projections of the number sentenced was pretty close. The year to date collection fee projection was \$165,764, however, only \$127,905 was collected. The current collection rate is at 70% or about \$40,000 less than projected. The collection rate appears to be about on target at this time.

In some cases the fees are waived due to indigence. There are some situations in which the fee is not ordered. It also appeared that some judges were consistently waiving the fee without further consideration or indigency hearing. Education of judges needs to continue. The Council was asked to keep in mind that a large group of misdemeanors are being asked to pay for a small group of felons.

Birkel stated Probation will be able to drill down in the data base to identify any collection issues. He noted it takes time to change and time to train and set up systems. The Council was urged to focus on what can be done with the funds. The fund divided by the number of offenders would provide about \$100 per offender.

In discussing whether a standard definition for indigency was needed, it was noted the definition appears to differ for those qualifying for a court appointed attorney and those whose fees are waived.

McKenzie stated the DOC applied the definition of the US Health and Human Services guidelines for poverty level. Only 3 requests for waivers have been received by the department at this time.

Flowers noted there is a state statute that defines indigence but it doesn't provide a number.

Birkel noted the need for the Council to define what the value should be. He expressed concern that the fee not keep people from accepting probation. According to current data, it does not appear to have impacted the sentencing practices.

In answer to a question as to what the projection was for yearly fee collection, Howard Kensinger, Legislative Fiscal Office, reported the model was based on actual probation figures. The actual monthly income will grow monthly for about 17 months. Eventually there will be 17,000 probationers paying a monthly fee. This will reflect the full probation division load paying a supervision fee.

Steele stated his experience with the collection of court fees is that there is a latency of several months in the collection and distribution of fees. In some instances the case filings are not being processed for 60 days and it may take 30 days to transfer funds. Steele also noted the figure listed under year to date for September on the State Fees collected chart should read \$144,000 instead of \$127,000.

Parole

McKenzie noted LB 46A set aside \$123,000 as a start up fund for programming. He asked the Council to consider earmarking \$23,000 for Parole to pay for electronic monitoring, and therefore stop requiring the parolee to pay this cost. He noted electronic monitoring is a supervision tool used by the Parole. If the parolee has a job, they can be placed on electronic monitoring. Those parolees who lack motivation, are poorly educated and/or have no job skills, have a hard time finding jobs. After a series of minor violations, Parole has to bring them back and ask for revocation. If the person placed on electronic monitoring defaults on paying the fee, the costs come out of the Parole's budget.

If Parole took over the expenses of electronic monitoring, they could negotiate for lower rates. The current rate is now \$4.71 per day or \$140 per month which is hard for the parolee to make. He suggested if Parole was the lessee, monitors could be placed early on those that appear to have problems. He noted the department was also considering a voice ID system that is a random calling system with voice recognition abilities that contacts the parolee at various times. Parole would also like to institute, for the DWI cases, a sobriety which is a system where random phone calls are made to parolees who are instructed to breathe into a device which gives a breath reading. The goal is to monitor parolees in such a way as to avoid revocations.

Brashear asked that the proposal be presented to the Council in a written form at the November meeting to allow analysis and consideration. A record needs to be built, data circulated and members allowed to test the information before action is taken on a request. Brashear stated a process and procedure will be developed to handle requests for funds and provide a recommendation that conforms to the law. Members will come to the meeting with adequate information to make considerations.

In answer to who has spending authority over the funds, Kensinger stated LB 46 created two funds. One fund was set up under the Department of Probation for probation fees and a second fund was created under the Department of Corrections (Parole) to collect a parole fee. The spending authority as it sets right now is the Department of Corrections on Parole and probation's money would be under the Supreme Court.

It was suggested Parole consider contracting directly with the providers and assess the fee to the offenders. The fee income would then off set the contract expense.

McKenzie stated currently BI bills each parolee individually who is on a monitor. He suggested the department would need statutory authority in order to collect fees directly.

Collection of programming fees by Parole is billed in arrears. As an example, if a person is paroled in July, the billing would go out in August and would be due by the 10th of September. Parole's accounting division is having difficulty getting information on the collection of fees at this time. They did get a good response in July but ultimately had to return the funds because the law was not retroactive.

Curtis asked if it mattered if the request came out of the \$23,000 start up fund which was appropriated for this fiscal year or from the collection of parolee cash funds.

McKenzie stated if the department contracts for the monitors, the fee would drop from \$4.71 to \$2.49 per day for those with phone lines and \$3.49 for wireless equipment. It was suggested the purchasing power could be enhanced if they worked cooperatively with probation on a contract with electronic providers.

Community Corrections Uniform Crime Data Analysis System Update

Curtis reported LB 46 charged the Commission with gathering certain kinds of data by statutory charge from Corrections, Probation, Parole, the Patrol and the Crime Commission. The Crime Commission has a separate criminal justice information system called NCJIS which is a data warehouse for various criminal justice entities.

LB 46 also set a \$1.00 service fee (court cost fee) for everyone that goes through the system to raise funds for this data collection. The fees are not waivable. Curtis noted the collection level of fees is growing.

A meeting was held with those charged with providing data (Supreme Court, Probation, Parole, Crime Commission, Corrections, and Patrol). The first meeting considered how to approach the project. The group decided to ask CJIS

to take on this project since CJIS already provides an arena in which they work together. CJIS put together a working group which has met two times. At the first meeting, the requirements of the bill were reviewed. It was determined that the requirements could be quite easily met. However, the participants wanted better information that would show if a policy change was made how that would affect other aspects of the system such as prison population, probation population, etc.

A second meeting was held with Vera. They agreed with the approach being taken and felt the state was fortunate to have the degree of information already available to it. The problems identified were: 1) Data on the front end is not information based upon the statutory charge. Uniform Crime Report (UCR) codes are used which are close and provide additional information. Data recorded from the court and county attorneys level is based on the statutory charge.

The conclusion was that the initial gathering of data required by LB 46 can be completed. Ultimately, there will need to be consideration of the entire system. It will take at least a year to build the infrastructure to do modeling which will go beyond the statutory needs of the Council. In the meantime, information will be put together for the Council to meet the statutory requirements.

Curtis noted the need for input from the Council as to what additional information is wanted.

A question was asked if NCJIS gets data from the District Court in Douglas County. It was noted JUSTICE does not have data from Douglas County District Court which is the largest felony court within the state. Therefore, very important data is missing.

Curtis stated this problem is being addressed. Douglas County will be contacted to see, since they are not a part of JUSTICE, if they would be interested in a direct connect to NCJIS. A way to feed that data to the JUSTICE system would then be needed.

Brashear asked who has the authority to require Douglas County District Court's participation in the data collection. He noted the need for a uniform way to get the required data to manage the work load in order to do planning and achieve the results required of the Council.

Curtis noted that with every data collection effort, due to their own internal problems, Douglas County has been a problem.

Vampola noted 40% of the incoming prison population is coming out of the Douglas County metropolitan area.

Steele noted the Douglas County system was developed by Douglas County Data Processing to meet their needs. All automation systems have a life cycle and at some point need to be replaced. It was noted that HHS has made special arrangements with Douglas County to get child support information in a totally different manner than is done across the state.

Curtis stated the Council must identify the target population for community corrections. Questions will need to be asked of the information in order to do this. What does the population look like, how many of them are there, what happens if you do this or that, etc. He noted that even though we don't get a lot of information from Douglas County directly, the information is provided indirectly through probation.

King noted DOC is in the process of developing a risk assessment instrument specific for Nebraska. The key thing about a risk assessment instrument is to ultimately identify whatever variables that have predictive ability. These variables have to be specific to your population and then validated to be sure the instrument does what is expected.

Birkel noted there were national known instruments that look at domains in regards to risks that are important. In the adult arena, that would be the LSI instrument which is primarily a probation/parole risk assessment instrument.

Birkel agreed that Corrections may have need for a specific instrument that would look at how to deal with offenders in an enclosed environment in terms of classification. However, he was seeking a risk assessment tool that could identify risks and needs to be addressed in terms of domains. It could end up in an informational system which could be accessed at each level of the system to see how the risk changes. The information could be communicated to the court for consideration, probation could use the same instrument in terms of how to supervise the people, the prison could pay attention to it when they end up there when they fail on probation, and probation/parole could use the same instrument when they are released.

McKenzie stated corrections has found that if a risk instrument is not built unique to corrections and parole, there will be overrides. A lot of the ratings on the current system have to be overridden. Two or three national experts were brought in to help build a risk instrument unique to Nebraska's correctional system to better call the classification levels. The system can be validated based on the number of overrides.

Birkel stated the state needs to ask Vera to consult on a risk assessment tool to meet the needs of all participants.

Icenogle noted that risk assessment is a prediction of future anticipated behavior. The Council is talking about setting up a system of rehabilitation and

system of corrections based on past behavior. He suggested a logical problem occurs if we determine participation in the corrections program based on future anticipated behavior.

Gruendel noted the risk assessment is based on the probabilities which are based upon past behavior, they are linked. They do help to determine service program needs.

King noted risk assessment instruments are based on dynamic factors and static factors that have predictive validity. A risk assessment tool can be developed which can be a very useful tool in determining the level of risk an individual presents to a specific situation.

Brashear stated that future debates will be included in the meetings agenda and information on the topics will be provided to members prior to the meeting.

Adams questioned the role or domain of the Community Corrections Council on a number of highly technical issues.

Brashear stated the Council will discuss this issue as part of what it does as it develops its vision. LB 46 strengths and weaknesses will be identified in the process. Issues will be addressed in a prioritized, sequenced basis and the issues will be worked through. This forum of stakeholders was missing in prior community corrections efforts.

Brashear asked that the work plan developed with Vera not be distributed at this meeting. He stated he was not in favor of breaking into subgroups initially as suggested in the work plan. He felt there was a strength in working as a full committee. The work plan was deferred and will be submitted to the Council in writing at a future meeting.

Krutz stated the work plan was a suggestion of a way to meet the two deadlines within the June, 2004 time frame.

Additional Meeting Procedures

Brashear noted the Community Corrections Council is a public body subject to open meeting laws. He said he would consider having his committee clerk transcribe the minutes word for word to provide an actual, literal verbatim transcript of the meeting.

Julie Rogers explained why there are voting and non-voting members on the Council. There have been a couple of Supreme Court decisions based on separation of powers issues which prohibit the judicial branch from sitting on an executive branch commission. The working group addressed this situation by making those representatives of the judicial branch non-voting members of the Council.

Brashear stated votes will be done by roll call and he will work through the technical issues.

The majority vote of the voting members will decide the issue. Those who are non-voting members may inform, discuss and respond to questions. Non-voting members may also make a record as to their opposition.

Vera Institute of Justice

Curtis noted the amount of work required in a short time span is a matter of concern and suggested the need to initiate some effort to develop standards.

Brashear noted his need to manage the process and have input in that process. He agreed the Council needs all the resources it can get at the price it can afford. The Vera Institute of Justice has provided free services to the Working Group. Vera can provide a point of aggregated data, information, and knowledge with experience that reaches out into every jurisdiction. Brashear asked that a proposal to use the services of Vera be brought to the next meeting.

Curtis noted the need to do some type of contract with Vera. He assumed a sole source contract could be obtained.

It was questioned whether there was an alternative resource with a similar scope of services.

Krutz noted Vera is on board with exactly what Nebraska is doing because they helped push the system to this point. They can do research for us, they have associates who have been through the building of community corrections systems in their own states, they have expertise in various areas such as sentencing guidelines, and they are excellent in facilitating meetings.

Brashear noted his experience of working with Vera was that with a phone call they could obtain a consultant from a multiplicity of jurisdictions.

Icenogle stated the need to determine if the Council is going to want some sort of group of district judges to be a part of the reviewing process or if the judges are to be kept out of the loop. He noted the district court judges will meet in October at which he could seek those interested in participating in a district judge working group to assist/advise in the formation of guidelines.

Brashear said the Council will need to incorporate, inform, include, and build ownership of the system used by participants. However, he suggested the Council needs to first reach some agreement before bringing in other participants. It was suggested that Icenogle could inform and put the judges on notice of the need to have their input in the development of guidelines.

Flowers asked to be given a copy of the 1993 Study on the Community Corrections Act. Brashear stated it will be incorporated in the next mailing.

Other working products of the working group were also requested. Brashear noted many pieces of work from opposing points of view are available which were worked through as LB 46 was developed. When relevant to the subject matter, he will try to include the information in the mailout.

Correspondence to Members

Krutz noted a letter was sent to Catherine Cook at the Crime Commission's office from an inmate with suggestions to the Council. It was suggested the group should determine how the letters should be handled, either by staff or individually.

Brashear noted as Council members are viewed as having impact on decisions made by the Council, they may start receiving input. He asked members to handle correspondence as best they can.

It was suggested if the correspondence is addressed to Council members, correspondence could be handled as a unit.

The need for a mail policy will be put on the next agenda.

Other Business

Vampola noted there are rumors in the yards of the various institutions that LB 46 will free the inmate from prison because it will force the Parole Board to let them out without any program. It is believed inmates no longer have to take mental health, non residential substance abuse treatment, or residential treatment programs. He has met with programmers at the institutional level who told him that inmates are dropping out of the institutional programs at an alarming rate. The RTC program currently has vacancies instead of the normal waiting list. Vampola stated he has sent a message to the yard, that the Parole Board will not parole inmates unless they have taken the tools necessary to function on the outside. There is a misconception in the institutions on the purpose of this Council and the purpose of LB 46.

There being no further business, the meeting adjourned at 12:15 p.m.

Respectfully submitted,

Barbara McCreight
Administrative Assistant

Note on Working Lunch Plans: Lunch was delivered at 11:30 a.m. by Valentinis. However, due to several agenda items being moved to the next meeting, the business meeting ended earlier than anticipated.